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ORACLE AMERICA, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.

Plaintiff,

v.

GOOGLE INC.

Defendant.

Case No. CV 10-03561 WHA

**ORACLE'S SUPPLEMENTAL  
COMMENT ON ORDER  
REGARDING MEDIATION**

1 Oracle submits these supplemental comments in response to Google's proposal that  
2 Andrew Rubin and Kent Walker represent Google in court-ordered mediation (Dkt. No. 402).

3 The Court's mediation plan is the last chance to resolve this case before a major  
4 investment of time and resources by the parties and the Court. The Court's September 2, 2011  
5 Order appropriately directs the parties to identify "top corporate executives" to participate in the  
6 mediation. Oracle believes the prospects for a successful mediation will be far greater if  
7 Google's executive-level representative is a superior to Mr. Rubin, who is the architect of  
8 Google's Android strategy—the strategy that gives rise to this case.

9 The suggestion in Google's filing today that Mr. Rubin and Ms. Catz are comparable  
10 high-level executives merely because they both report to their respective CEOs ignores important  
11 differences in their roles. Mr. Rubin is a Senior Vice-President with responsibility only for  
12 Google's mobile strategy. Indeed, Google itself does not identify Mr. Rubin as a top corporate  
13 executive in its own public disclosures to investors. *See, e.g.,*  
14 <http://investor.google.com/company/management.html>. In contrast, Ms. Catz is Oracle's  
15 President, CFO, and a member of its Board of Directors. She has company-wide responsibility for  
16 all financial and legal matters. *See* [http://www.oracle.com/us/corporate/press/executives/index-](http://www.oracle.com/us/corporate/press/executives/index-070733.html)  
17 [070733.html](http://www.oracle.com/us/corporate/press/executives/index-070733.html) (describing Ms. Catz's role on Oracle senior executive team).

18 Additionally, Mr. Rubin represented Google in several past discussions between the  
19 parties. So has Mr. Walker, including at the unsuccessful private mediation referenced in the  
20 Court's Order. In light of the failure of these past attempts at resolution, Oracle believes it vital  
21 that both parties assign top corporate executives to the mediation. Oracle asks that the Court  
22 direct Google to assign a corporate representative to the mediation effort who meets this standard.

23 Dated: September 7, 2011

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26 By: /s/ Michael A. Jacobs

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